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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,778	01/11/2002	Michael Perkins	19353/6-CIP	3708
21710	7590	07/08/2004	EXAMINER	
BROWN, RUDNICK, BERLACK & ISRAELS, LLP. BOX 1P, 18TH FLOOR ONE FINANCIAL CENTER BOSTON, MA 02111			HOEY, BETSEY MORRISON	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,778

Applicant(s)

PERKINS ET AL.

Examiner

HOEY, BETSEY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-21 is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 11 and 22 is/are rejected.
- 7) ☒ Claim(s) 6-9 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 is considered indefinite because it recites a step of chilling poultry, and it is unclear where this step falls into the "method for recycling water...." as recited in parent claim 1. If it is assumed that the water being treated is supplied by the step of chilling, then the claim contradicts the limitations of claim 1, and if it is assumed that the treated water is recycled to a step of chilling, then a rejection under Dunn et al. (see below) is applicable. Claim 22 is considered indefinite because it is unclear where the step of introducing a surfactant into water takes place in the method of processing poultry. If it is assumed that effluent resulting from the process is treated by introducing a surfactant, or that effluent from processing is treated by introducing a surfactant and subsequently recycled to the chilling step, then a rejection under Dunn et al. (see below) is applicable.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 10, 11 and 22 (see above regarding the rejection of claims 11 and 22) are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al., U.S.

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Patent No. 4,790,943 (see column 1, lines 67-68; column 3, lines 25-35; column 5, lines 33-34). Dunn et al. disclose a process for treating waste water of a poultry processing plant for reuse in the plant. The process comprises contacting the waste water with a strong oxidant such as ozone, which breaks down emulsions and causes floc formation of fat and grease, followed by steps of separation and filtration, and finally adding chlorine if necessary, which is known to disinfect water. The waste water to be treated by the process of Dunn et al. can be obtained from various steps of a poultry processing plant, including wash down, and therefore the waste water does not necessarily include any used chiller water. The process produces treated water having turbidity of less than 2 NTU.

The claims differ from Dunn et al. by reciting that ozone is reacted with water to produce surfactants (claim 1) and reduce surface tension (claim 3). It is submitted that while Dunn et al. do not specifically discuss a reaction between the ozone and waste water being treated, Dunn et al. are clearly concerned with using a strong oxidant to break emulsions and form flocs. It appears that the addition of oxidant in the process of Dunn et al. results in producing surfactants inherently. Therefore, even if we assume that surfactant production is not inherent in the process of Dunn et al., it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have used the addition of ozone in the process of Dunn et al. to produce surfactants by reaction with the water, in order to assist with, or enhance, the emulsion breaking and floc formation.

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5. Claims 6-9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 13-21 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

Claims 6-9 would be allowable if rewritten in independent form including all of the limitations of claim 1 because the prior art of record fails to teach, disclose, or fairly suggest a method for recycling water used in processing poultry comprising recovering water used in a non-chilling processing step by passing the water through a recovery sump comprising a basin having first and second compartments, a weir, a barrier, and exit orifice arranged and configured as recited in claim 6, followed by treating recovered water by reacting ozone with the water to produce surfactants. It is submitted that while no single step of the method of claim 6 is novel alone, the specific combination and order of all of the steps is not suggested by the prior art of record.

Claims 13-19 are allowed because the prior art of record fails to teach, disclose, or fairly suggest a method for recycling water used in processing poultry comprising introducing ozone and chlorine into water recovered from a non-chilling process step of poultry processing, reacting the ozone with the chlorine to generate a biocide, and reusing the treated water in another step of processing poultry, in combination with the other limitations of claim 13. It is submitted that while Dunn et al. disclose adding ozone or chlorine to poultry processing water, and destroying bacteria, Dunn et al. do not

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suggest adding both ozone and chlorine to the water being treated and reacting the ozone and chlorine to generate a biocide. It is further submitted that while generating a biocide via reaction of ozone and chlorine is not novel in itself, the prior art of record fails to suggest carrying out such reaction by adding ozone and chlorine to poultry processing water for the purpose of treating and reusing the water.

Claim 20 is allowed because the prior art of record fails to teach, disclose, or fairly suggest a method for recycling water used in processing poultry comprising introducing ozone and chlorine into water recovered from a non-chilling process step of poultry processing, reacting the ozone with the chlorine to generate a biocide, and reintroducing the treated water in a step of processing poultry, wherein the introduction reduces the level of microorganisms in the poultry. It is submitted that while Dunn et al. disclose adding ozone or chlorine to poultry processing water, and destroying bacteria, Dunn et al. do not suggest adding both ozone and chlorine to the water being treated and reacting the ozone and chlorine to generate a biocide. It is further submitted that while generating a biocide via reaction of ozone and chlorine is not novel in itself, the prior art of record fails to suggest carrying out such reaction by adding ozone and chlorine to poultry processing water for the purpose of treating and reintroducing the water in a processing step.

Claim 21 is allowed because the prior art of record fails to teach, disclose, or fairly suggest a method for recycling water used in processing poultry comprising introducing ozone and chlorine into water recovered from a non-chilling process step of poultry processing, introducing ozone into the water to saponify fats and produce a

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surfactant, introducing chlorine into the water, reacting the ozone with the chlorine to generate a biocide, and reusing the treated water in another step of processing poultry. It is submitted that while Dunn et al. disclose adding ozone or chlorine to poultry processing water, causing emulsions to break and flocs to form, and destroying bacteria, Dunn et al. do not suggest adding both ozone and chlorine to the water being treated and reacting the ozone and chlorine to generate a biocide. It is further submitted that while generating a biocide via reaction of ozone and chlorine is not novel in itself, the prior art of record fails to suggest carrying out such reaction by adding ozone and chlorine to poultry processing water for the purpose of treating and reusing the water.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is **(571) 272-1158**. The examiner can normally be reached on Mondays, Tuesdays, and Thursdays from 7:30-1:00 AM. The examiner's supervisor, Mr. Duane Smith, may be reached at (571) 272-1166. Any inquiry of general nature may be directed to the Group receptionist at (571) 272-0987. The centralized fax number for the Group is (703) 872-9306. The examiner Rightfax number is (571) 273-1158.

Betsey M. Hoey
BETSEY MORRISON HOEY
PRIMARY EXAMINER

June 29, 2004